



## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 8365

[212.LLAZA01000.L1220000.DD0000]

### Final Supplementary Rule for Public Lands at Virgin River Canyon Recreation Area in Mohave County, Arizona

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final supplementary rule.

**SUMMARY:** The Bureau of Land Management (BLM) is finalizing a supplementary rule to reinstate a 14-day camping limit at the Virgin River Canyon Recreation Area within the Arizona Strip Field Office, Arizona Strip District, Mohave County, Arizona. The supplementary rule is needed to protect public health and safety, reduce user conflicts within the designated recreation area, and protect the area's natural resources.

**DATES:** The final supplementary rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit inquiries by any of the following methods:

*Mail:* BLM Arizona Strip Field Office, 345 East Riverside Drive, St George, UT, 84790.

Attention: Amanda Sparks.

*Email:* [blm\\_az\\_asdo\\_comments@blm.gov](mailto:blm_az_asdo_comments@blm.gov).

**FOR FURTHER INFORMATION CONTACT:** Amanda Sparks, Assistant Field Manager, Arizona Strip Field Office, at 435-688-3271 or by email at [BLM\\_AZ\\_ASDO\\_Comments@blm.gov](mailto:BLM_AZ_ASDO_Comments@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual. The FRS is available 24 hours a day, seven days a week, to leave a message or

question with the above individual. You will receive a reply during normal business hours.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background Information**

The supplementary rule is needed because an increasing number of users of the Virgin River Canyon Recreation Area have established long-term residency under the pretext of recreational camping. The proliferation of residential use interferes with legitimate recreational use of public lands and creates other health and safety concerns including hygiene and sanitation issues (e.g., no access to showers or waste dump stations, accumulation of miscellaneous items, and the occasional long-term presence of dogs and their associated waste). The supplementary rule will provide more recreational opportunities for the public and reduce damage to natural resources that occur from trash dumping, accumulation or abandonment of equipment or vehicles, loss of vegetation, and contamination of nearby waters.

Efforts to contain the problems associated with long-term occupancy without imposing a 14-day stay have proven insufficient and concerns with public health and safety have intensified. Establishment of this supplementary rule will: (1) provide more opportunities for the recreating public to utilize the campground facilities and access the surrounding area; (2) create consistent camping limitations across the Arizona Strip Field Office; (3) allow for management of the site for recreational purposes while preserving the health and safety of visitors; and (4) enable law enforcement personnel to cite persons for unlawful camping and use of public land for residential purposes, thereby increasing campsite availability to the recreating public.

This supplementary rule is consistent with the Arizona Strip Field Office Resource Management Plan (RMP), approved by the BLM (January 29, 2008). The BLM analyzed the proposed change in an environmental assessment (EA) (DOI-BLM-AZ-

A010-2018-0030-EA) and issued a Finding of No Significant Impact (FONSI) and Decision Record on February 6, 2019.

The BLM is establishing this supplementary rule under the authority of 43 CFR 8365.1–6, which allows BLM State Directors to establish supplementary rules for “the protection of persons, property, and public lands and resources.” This provision allows the BLM to issue rules of less than national effect by publishing the rule in the *Federal Register* without codifying it in the Code of Federal Regulations. This final supplementary rule applies to public lands at the Virgin River Canyon Recreation Area within sections 14 & 15 of Township 41 North, Range 14 West of the Gila and Salt River Meridian. You may contact the Arizona Strip Field Office (see **ADDRESSES**) for maps of the management area and boundary or to review the notice.

## **II. Discussion on Public Comment and Final Supplementary Rule**

On March 31, 1994, the BLM Arizona State Office established supplementary rules for the Virgin River Canyon Recreation Area (59 FR 15214). The 1994 camping and occupancy rule exempted the Virgin River Canyon Recreation Area from the Arizona Strip District’s 14-day camping limit that prohibits camping longer than 14 consecutive days within a 28-day period and requires campers to move at least 30 air miles from a previously occupied camping location. The 1994 supplementary rule therefore allowed for unlimited overnight stays within the Virgin River Canyon Recreation Area. This final supplementary rule will revise the 1994 rule by reinstating the camping limit of 14 consecutive days within a 28-day period on public land within the Virgin River Canyon Recreation Area, making it consistent with all other public lands within the Arizona Strip Field Office area.

No other changes to the 1994 supplementary rules will occur and they will continue to be enforced as described in the 1994 notice. The reinstatement of a camping

limit will help the BLM maintain public access for recreational purposes, reduce conflicts among visitors, and preserve public health and safety.

The BLM Arizona State Director proposed the supplementary rule in the *Federal Register* on June 15, 2021 (86 FR 31665). The notice announced a 60-day public comment period on the proposed supplementary rule to reinstate a 14-day camping limit within a 28-day period at the Virgin River Canyon Recreation Area within the Arizona Strip Field Office area, Arizona Strip District, Mohave County, Arizona. The BLM also published a news release announcing the comment period. The comment period ended on August 16, 2021. The BLM received five comments by email, all in support of the proposed rule.

### **III. Procedural Matters**

#### Executive Order 12866 and 13563, Regulatory Planning and Review

This supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Orders 12866 or 13563. The rule will not have an effect of \$100 million or more on the economy. This rule establishes a duration for camping stays and does not adversely affect, in a material way, the economy, productivity, competition, jobs, environment, public health or safety, or state, local, or tribal governments or communities. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor does the rule raise novel legal or policy issues. This rule will enable law enforcement personnel to efficiently track occupancy and enforce regulations pertaining to unlawful occupancy in a manner consistent with current Arizona State and county laws, where appropriate on public lands.

#### National Environmental Policy Act

The BLM prepared an EA and found that the supplementary rule does not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 USC 4332(2)(C). The BLM completed the EA to analyze the effects of the change in the stay limit in the Virgin River Canyon Recreation Area. The Decision Record for this EA was signed on February 6, 2019. The BLM has placed the EA and the FONSI on file in the BLM Administrative Record at the Arizona Strip Field Office address specified in the **ADDRESSES** section.

#### Regulatory Flexibility Act (RFA)

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 USC 601, *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This supplementary rule does not pertain specifically to commercial or governmental entities of any size but contains a rule to limit the duration of overnight camping on public lands within the Virgin River Canyon Recreation Area in the Arizona Strip Field Office area. Therefore, the BLM has determined, under the RFA, that this supplementary rule does not have a significant economic impact on a substantial number of small entities.

#### Small Business Regulatory Enforcement Fairness Act (SBREFA)

This supplementary rule does not constitute “major rules” as defined at 5 USC 804(2). The supplementary rule establishes a 14-day stay limit on overnight camping during a 28-day period and within 30 air miles on lands within the Virgin River Canyon Recreation Area. The limitation is necessary to: (1) provide more opportunities for the recreating public to utilize the campground facilities and access the surrounding area; (2) create consistent camping limitations across the Arizona Strip Field Office; (3) allow for

management of the site for recreational purposes while preserving the health and safety of visitors; and (4) enable law enforcement personnel to cite persons for unlawful camping and use of public land for residential purposes. The supplementary rule will have no effect on business, commercial, or industrial use of the public lands.

#### Unfunded Mandates Reform Act

This supplementary rule does not impose an unfunded mandate on state, local or Tribal governments or the private sector of more than \$100 million per year, nor does the supplementary rule have a significant or unique effect on state, local or Tribal governments or the private sector. The supplementary rule does not require anything of state, local or Tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 USC 1531, *et seq.*).

#### Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

This supplementary rule does not represent a government action capable of interfering with constitutionally protected property rights. The supplementary rule does not address property rights in any form and does not cause the impairment of anyone's property rights. Therefore, the BLM has determined that this supplementary rule does not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### Executive Order 13132, Federalism

This supplementary rule will not have a substantial, direct effect on the states, on the relationship between the Federal government and the states or on the distribution of power and responsibilities among the various levels of government. The supplementary rule applies in only one state, Arizona, and does not address jurisdictional issues involving the Arizona state government. Therefore, in accordance with Executive Order

13132, the BLM has determined that the supplementary rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that this supplementary rule will not unduly burden the judicial system and that the rule meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found this supplementary rule does not include policies that have tribal implications and will have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs. Since this supplementary rule does not change BLM policy and does not involve Indian reservation lands or resources, the BLM has determined that the government-to-government relationships remain unaffected. The supplementary rule will only prohibit camping longer than 14 days in any 28-day period and within 30 air miles of the Virgin River Canyon Recreation Area on public lands managed by the BLM Arizona Strip Field Office.

Executive Order 13352, Facilitation of Cooperative Conservation

Under Executive Order 13352, the Arizona State Office of the BLM has determined that this supplementary rule will not impede the facilitation of cooperative conservation. The supplementary rule will take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources, properly accommodate local participation in the Federal decision-making process and provide that the programs, projects and activities are consistent with protecting public health and safety.

Information Quality Act

In developing this supplementary rule, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This supplementary rule does not constitute a “significant energy action” as defined in Executive Order 13211. The supplementary rule will not have an adverse effect on energy supplies, production, or consumption. The rule only addresses unauthorized occupancy on public lands and has no connection with energy policy.

Paperwork Reduction Act

This supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 USC 3501–3521.

**Final Supplementary Rule**

Author

The principal author of this supplementary rule is Jon Jasper, Outdoor Recreation Planner, Arizona Strip Field Office, Bureau of Land Management.

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1–6 and 43 USC 1740, the Arizona State Director establishes the following supplementary rule for public lands managed by the BLM in Mohave County, Arizona, subject to the Arizona Strip Field Office Resource Management Plan, to read as follows:

*Definitions*

*Camp* means erecting a tent or shelter of natural or synthetic material; preparing a sleeping bag or other bedding material; parking a motor vehicle, motor home, or trailer; or mooring a vessel for the apparent purpose of overnight occupancy.

*Prohibited Acts*



Unless otherwise authorized, the BLM will enforce the following rule on public lands within the Virgin River Canyon Recreation Area, within the Arizona Strip Field Office, Arizona Strip District, Arizona.

*Camping and Occupancy*

1. You must not remain or camp within the Virgin River Canyon Recreation Area for more than 14 consecutive days in a 28-day period.

2. After the 14<sup>th</sup> consecutive day, campers must move beyond a 30-mile radius from the boundary of the Virgin River Canyon Recreation Area.

*Exemptions*

The following persons are exempt from this rule: Any Federal, state, local, and/or military employee acting within the scope of his or her official duties; members of any organized rescue or firefighting force in performance of an official duty; and any person authorized, in writing, by the BLM authorized officer.

*Penalties*

Any person who violates this rule may be tried before a United States Magistrate and fined in accordance with 18 USC 3571, imprisoned no more than 12 months under 43 USC 8365.1-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Arizona law.

Raymond Suazo

State Director, Arizona.

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